

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JONATHAN ESTRADA,

Plaintiff,

vs.

No. CV: 21-0653 KRS

**KILOLO KIJAKAZI,
Acting Commissioner of Social Security,**

Defendant.

ORDER

Upon consideration of the Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, the Court hereby awards Plaintiff \$5,650.00 in attorney fees under the EAJA.

IT IS SO ORDERED that the Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act (Dkt. No. 40) is hereby GRANTED. Plaintiff is awarded attorney fees in the amount of \$5,650.00 as the prevailing party herein. It is further ordered that if, after receiving the Court's EAJA fee order, the Commissioner (1) determines upon effectuation of the Court's EAJA fee order that Plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program, and (2) agrees to waive the requirements of the Anti-Assignment Act, the fees will be made payable to Plaintiff's attorney. However, if there is a debt owed under the Treasury Offset Program, the Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be paid by a check made out to Plaintiff but delivered to Plaintiff's attorney. If Plaintiff's counsel is subsequently awarded any

fees pursuant to 42 U.S.C. §406(b), she must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 7th day of December, 2022.



KEVIN R. SWEAZE
UNITED STATES MAGISTRATE JUDGE

Submitted by:

s/ Amber L. Dengler
Amber L. Dengler
Attorney for Plaintiff

Approved by email on 12/7/22 by:

s/ Kirsten Westerland
Kirsten Westerland, Special AUSA
Attorney for Commissioner